

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Gary T. Pierce

Vs.

Central Illinois Light Company
d/b/a AmerenCILCO

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05-0151

ILLINOIS
COMMERCE COMMISSION
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LEGAL BRIEF

Article V: 220 ILCS 5/5-107 Sec. 5-107 [False entries in accounts; penalty Class A misdemeanor.]

The complainant (Gary Pierce) alleges that these charges are false, and not consistent to the usage at resident at 1940 E. Jackson St. Springfield, IL 62703. Which complainant feels is an violation of this regulation.

Article VIII: 220 ILCS 5/8-201[Service during winter months; requirement of good faith.] Sec. 8-201. It is the policy of this State that no person should be denied essential utility service during the winter months due to financial inability to pay. It is also the policy of this State that public utilities, and residential heating customers deal with each other in good faith, and fair manner. Illinois Administrative Code 83 411.20

The complainant (Gary Pierce)once again allege that the defendant (AmerenCILCO) did not honor this regulation in that it turned off the utility knowing that this structure was used to provide shelter for the homeless. The last winter (2004) they did not shut off the gas utility, which leads that defendant was not acting in good faith nor a fair manner.

220 ILCS 5/8-202 [Termination of electricity or gas service during winter months; notice; no liability for death, injury or damages.]

Sec. 8-202. None of the rules of this section but (a) was followed at 1940 E. Jackson St. Springfield, IL 62703.

The complainant (Gary Pierce) was not given any notification at his residence that his utility was being shut off, (2212 Catalina Lane Springfield, IL 62702) this comes into the charge of alleged harassment of complainant by defendant (AmerenCILCO).

220 ILCS 5/8-205 [When termination of gas, and electric utility service is prohibited]

Sec. 8-205. Termination of gas, and electric utility service to all residential users, including all tenants of master metered apartment buildings, for non-payment of bills, where gas or electricity is used as the only source of space heating or to control or operate the only space heating equipment at the residence is prohibited.

1. On any day when the National Weather Service forecast for the following 24 hours

covering the area of the utility in which the residence is located includes a forecast that the temperature will be 32 degrees Fahrenheit or below; or

2. On any day preceding a holiday or a weekend when such a forecast indicated that the temperature will be 32 degrees Fahrenheit or below during the holiday or weekend.

The complainant (Gary Pierce) alleges violation of this section when in January 2005, the defendant (AmerenCILCO) turned off the utility on a Friday before the weekend, and 24 hours knowing the forecast predicted 32 degrees or less.

Article VIII. 220 ILCS 5/8-301[Rates]

Duty of Commission:

The Illinois Commerce Commission exists for the function of maintaining a balance between the rates charged by utilities, and the services performed; it is to determine that the rates are just and reasonable, and that the services are adequate. *Village of Apple River v. Illinois Commerce Comm'n*, 18 Ill. 2d 518, 165 N.E. 2D 329 (1960).

Regulation of Gas Meters

Commission Jurisdiction Exclusive

This section specifically grants to the Illinois Commerce Commission authority to regulate gas meters; consequentially it implicitly divests municipalities of that authority inasmuch as the power granted is direct, special, and necessarily exclusive. *Irwin v. Peoples Gas Light & Coke Co.* 173 Ill. App. 3d 699, 123 ILL. Dec. 656, 528 N. E. 2d 201 (1 Dist. 1988).

The complainant (Gary Pierce) puts this in the brief to remind defendant (AmerenCILCO), and ALJ (Albers) of this regulation, and the right of the ALJ to decide in this complainant if being charged commercial rates, since the building is used for an outreach ministry for the community, and the homeless population of Springfield, IL; is fair.

220 ILCS 5/8 303 [Investigation by public utility of allegation of unreasonably high level of consumption.]

The complainant (Gary Pierce) states that this section did not say anything about checking the insulation or structure of the building which defendant (AmerenCILCO), is using this as one of their defenses.

Article IX. 220 ILCS 5/9-101(Just and reasonable rates and charges.)

Sec. 9-101. All rates or other charges made, demanded or received by any product or commodity furnished or to be furnished or for any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such product or commodity or service is hereby prohibited and declared unlawful. All rules, and regulations made by a public utility affecting or pertaining to its charges to the public shall be just and reasonable.

Ratemaking:

In General:

The determination of public utility rates is not a matter of formulas but one of sound business judgment which has been committed by the legislature to the expert judgment of the Commerce Commission. *Villages of Milford v. Illinois Commerce Comm'n*, 20 Ill 2d 556, 170 N.E. 2D 576 (1960).

Question of Fact:

The determination of what is just, and reasonable rate is a question of fact to be settled by the good sense of the tribunal before which it may come. *Governor's Office of Consumer Affairs v. Illinois Commerce Comm'n*. 220 Ill. App. 3d 68, 162 Ill. Dec. 737, 580 N.E. 2d 920 (3 Dist. 1991).

The complainant (Gary Pierce) ask the ALJ (Albers) to keep this section in mind when determining the evidence of bill fluctuations, as well as deciding if the complainant was being charged a fair rate under an correct, and fair way considering the way the building was used, and that it was a small ministry, not a large church.

Article X. 220 ILCS 5/10-109 [Claims against public utility for loss of, or damage to property, or for other loss or damage.]

Sec. 10-109:

The Commission shall have power to receive complaints regarding loss or damage occasioned by a public utility, and to make inquiry as to the methods of adjusting such claims.

The complainant (Gary Pierce) states that all alleged complainants are true to the best of his knowledge, and has been submitted in layman terms to the best of complainant's abilities. Therefore this section demonstrates that something needs to be done about defendant's (AmerenCILCO) continued unfair charges, as well as alleged harassment.

6/14/05

